

IN THE COURT OF THE JUDGE, FAMILY COURT,
BHUBANESWAR.

Present : Shri Pravakar Mishra, OSJS (SB),
Judge, Family Court, Bhubaneswar.

Civil Proceeding No. 280 of 2013

Smt. Aparajita Jena, aged about 25 years,
W/o-Sanjaya Kumar Jena,
D/o-Abakasha Jena,
of Vill-Naharakanta, P.S.-Mancheswar,
Bhubaneswar, Dist-Khurda
At present-C/o-Abakash Jena,
Jena Sahi, Badagada, P.O./P.S.-Badagada,
Bhubaneswar, Dist-Khurda

... Petitioner

... Versus...

Sanjaya Kumar Jena, aged about 30 years,
S/o-Golekha Chandra Jena,
Resident of village-Naharakanta,
P.S.-Mancheswar, Bhubaneswar, Dist-Khurda.
At present-Nilakantha Nagar, P.O./P.S.-Nayapalli,
Bhubaneswar, Dist-Khurda.

... Respondent

Date of Argument : 23.06.2015

Date of Judgment : 26.06.2015

J U D G M E N T

The petitioner-wife has filed a petition U/s. 13 (1) (i) (i-a) of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of her marriage with the respondent-husband on the ground of cruelty.

2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites in Champadei Temple, Buxi Bazar, Cuttack on 30.08.2009. According to the petitioner at the time of marriage her father had

given cash of Rs. 80,000/-, gold and silver ornaments along with other household articles as per the demand of the respondent and his family members. During her stay in her matrimonial home, the respondent tortured her both physically and mentally on silly matters. The respondent also assaulted her with the spell of liquor and forced her to bring more cash from her father and when she showed her inability to fulfill the same, she was subjected to torture both physically and mentally and was not provided with food. She has further stated that the respondent most of the time remained outside from the house in the night for which she was deprived of her conjugal rights. On 10.06.2012 when she requested the respondent and his family members to allow her to visit to her parental home, the respondent told her, if she would go to her parents house, she was allowed with a condition to bring Rs. 1,00,000/- when she will return to her matrimonial home and when she objected it, the respondent and his parents being furious abused her in filthy languages, pulled her saree and gave push to her for which she became nude and fell down on the ground and thereafter they have also assaulted her by means of fist blows, slaps kicks and did not allow her to go her parental home. In the month of June, 2012 the respondent and his family members further demanded cash of Rs. 50,000/- for purchasing of Indica Car and the father of the petitioner paid the said amount in order to save her life on 25.06.2012. After some days she came to know that the respondent has extra marital relationship with one Kshyana Prava Sahoo and he had also married her on 09.10.2009 before Notary Public Sri B.N. Biswal, Bhubaneswar vide No. 1084 dated 09.10.2009. The respondent also purchased the above mentioned Indica Car in the name of said Kshyana Prava Sahoo showing her as his wife which is evident from the registration certificate of R.T.O, Bhubaneswar. On 13.07.2012 the said concubine abused her and cautioned her not to keep any relation with the respondent. After hearing such when she told the said fact to the respondent and his family members, they did not pay any heed to it, rather she was subjected to torture both physically and mentally and was threatened to be killed them. On 14.07.2012, the respondent and his family

members after assaulting her driven her out from their house and told her not to tell anything about the extra marital relationship of the respondent to anybody. They have also told her to bring another Rs. 50,000/- from her father failing which she would be killed and since then she has been residing in her parental home. Since the torture and cruelty by the respondent became in-tolerable the petitioner has filed this proceeding seeking a decree of divorce on the ground of cruelty.

3. The respondent did not enter contest the petition and therefore, is set ex-parte.

4. The question that requires to be adjudicated is whether, there exists any cruelty on the part of the respondent to allow the petition for divorce?

5. The petitioner in order to prove her case she, herself, has been examined P.W. 1 and relied on two documents i.e. Ext. 1 is the Xerox copy of the FIR and Ext. 2 is the Xerox copy of the register of Notary Public B.N. Biswal dated 10.04.2013.

6. The petitioner sought divorce on the ground of respondent's cruelty. She has deposed about the maltreatment of the respondent towards her. Her statement is facsimile to the allegation made in petition which have gone unchallenged as there has been no cross examination since the respondent has been set ex-parte. Law is well settled that when a statement of a witness gone unchallenged, the same must be accepted as true. Therefore, the statement of P.W. 1 is accepted as true. Since it has been the duty of the petitioner to establish the ground i.e. cruelty set out in the petition seeking divorce against the respondent, the evidence of P.W. 1 is examined in ferreted eyes and on such examination I am satisfied that the petitioner could able to establish the same. Torturing both physically and mentally by the respondent with the spell of liquor, demanding additional demand of Rs. 1,00,000/-, not allowing the petitioner to enter into the matrimonial home, marrying one Kshyana Prava Sahoo by the respondent on 09.10.2009 before Notary Public and when the petitioner objected, she was subjected to torture both physically and mentally and threat to kill the petitioner by the respondent and his family

members and purchasing the Indica Car in the name of Kshyana Prava Sahoo showing as his wife, which are emerged out from the evidence P.W. 1 are circumstances of the cruelty and therefore, the petition of the petitioner deserves merit to be allowed. Hence, it is ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. A decree of divorce is passed and the marriage between the petitioner and the respondent is hereby declared dissolved with effect from the date of decree.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 25th day of June, 2015.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Aparajita Jena

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext. 1 Copy of the FIR

Ext. 2 Xerox copy of the register of Notary Public B.N. Biswal dated
10.04.2013.

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.